IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

MONDAY, THE 1ST JANUARY 2007 / 11TH POUSHA 1928

OP.No. 19083 of 2002(V)

PETITIONERS:
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1. **M.M.NAZEER, S/O.MOIDEEN,**
   KADEVIL, MULAKKAMPARAMBIL HOUSE, 4TH MILE,
   ERUMATHALA P.O., ALUVA.

2. **SMT.SHALIMA, W/O. NAZEER,**
   -DO-.

BY ADV. SRI.K.A.SHAMSUDEEN

RESPONDENTS:
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1. **THE STATE OF KERALA,**
   REP. BY ITS SECRETARY TO THE REGISTRATION
   DEPARTMENT, GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

2. **THE DISTRICT REGISTRAR (GENERAL),**
   ERNAKULAM.

3. **THE DEPUTY TAHSILDAR,**
   REVENUE RECOVERY, ALUVA TALUK, ALUVA.

BY GOVERNMENT PLEADER SMT.D.P.RUNE

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 01/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.32683/2002 IN OP. NO.19083/2002

DISMISSED

1.1.2007 **SD/- P.R.RAMAN, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE DOCUMENT OF SALE DEED NO.3706/1998

EXT.P2:- COPY OF THE ABOVE SAID PROVISIONAL ORDER ISSUED BY THE 2ND RESPONDENT DT.28.8.2000.

EXT.P3:- COPY OF THE OBJECTION SUBMITTED BY THE 1ST PETITIONER TO 2ND RESPONDENT DT.12.10.2000.

EXT.P4:- COPY OF THE NOTICE ISSUED UNDER SECTION 7 OF THE REVENUE RECOVERY ACT DT.28.5.02 (SIGNED ON 29.5.02.)

EXT.P5:- COPY OF THE NOTICE ISSUED UNDER SECTION 34 OF THE REVENUE RECOVERY ACT DT.28.5.02 (SIGNED ON 29.5.02.)

EXT.P6- COPY OF THE REQUEST SUBMITTED TO THE 2ND RESPONDENT DT. 8.7.02.

/TRUE COPY/

tss

P.R.RAMAN, J.

O.P. NO. 19083 OF 2002

Dated this the 1st day of January, 2007

J U D G M E N T

Petitioner impugnes the revenue recovery proceedings initiated against him for the recovery of an amount of Rs.15,600/- as deficit stamp duty payable by him. It is admitted that Exhibit P2 provisional order was received from the office of the Registrar General, Ernakulam and according to the petitioner P3 objection was filed. In the counter affidavit filed by the respondent, it is averred that no objection or representation was received against Exhibit P2 provisional order. No reply affidavit is filed by the petitioner. No materials are placed to show that Exhibit P3 has been send, or received by the respondents office. In the light of the counter affidavit, it has to presume in the absence of any materials placed on record that Exhibit P3 has not been proved to have been submitted by the petitioner and received by the respondent, But, final order is stated to have been passed by the respondents. But in para 5 of the counter affidavit, the date on which the final order was passed, when was it communicated, whether the same was send by registered post etc are not stated. Even if no objections are received, the statutory authority is

obliged to pass final order and communicate the same to the petitioner. No details are furnished as to the date on which the same has been issued and received by the petitioner. Further even the final order is not produced along with the counter affidavit.

2. In the circumstances, a copy of the final order shall be served on the petitioner on petitioner producing copy of this judgment, and thereafter the petitioner may avail his statutory appellate remedy before the District Court in accordance with the provisions of the Stamp Act. The revenue recovery proceedings initiated as per Exhibit P4 will stand deferred for a period of two months and thereafter the same shall be subject to any orders that may be passed by the competent court.

3. In the circumstances, Exhibit P4 will stand stayed for two months. Petitioner can produce copy of judgment before the respondent for issuing the copy of the final order passed in the matter and the date of receipt will be taken as the date for the purpose of filing appeal before the appellate authority.

Issue photocopy on usual terms to both sides.

P.R.RAMAN, JUDGE

Rp